

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Children and Family Services Act is amended
5 by changing Section 5 as follows:

6 (20 ILCS 505/5) (from Ch. 23, par. 5005)

7 Sec. 5. Direct child welfare services; Department of
8 Children and Family Services. To provide direct child welfare
9 services when not available through other public or private
10 child care or program facilities.

11 (a) For purposes of this Section:

12 (1) "Children" means persons found within the State who
13 are under the age of 18 years. The term also includes
14 persons under age 19 who:

15 (A) were committed to the Department pursuant to
16 the Juvenile Court Act or the Juvenile Court Act of
17 1987, as amended, prior to the age of 18 and who
18 continue under the jurisdiction of the court; or

19 (B) were accepted for care, service and training by
20 the Department prior to the age of 18 and whose best
21 interest in the discretion of the Department would be
22 served by continuing that care, service and training
23 because of severe emotional disturbances, physical

1 disability, social adjustment or any combination
2 thereof, or because of the need to complete an
3 educational or vocational training program.

4 (2) "Homeless youth" means persons found within the
5 State who are under the age of 19, are not in a safe and
6 stable living situation and cannot be reunited with their
7 families.

8 (3) "Child welfare services" means public social
9 services which are directed toward the accomplishment of
10 the following purposes:

11 (A) protecting and promoting the health, safety
12 and welfare of children, including homeless, dependent
13 or neglected children;

14 (B) remedying, or assisting in the solution of
15 problems which may result in, the neglect, abuse,
16 exploitation or delinquency of children;

17 (C) preventing the unnecessary separation of
18 children from their families by identifying family
19 problems, assisting families in resolving their
20 problems, and preventing the breakup of the family
21 where the prevention of child removal is desirable and
22 possible when the child can be cared for at home
23 without endangering the child's health and safety;

24 (D) restoring to their families children who have
25 been removed, by the provision of services to the child
26 and the families when the child can be cared for at

1 home without endangering the child's health and
2 safety;

3 (E) placing children in suitable adoptive homes,
4 in cases where restoration to the biological family is
5 not safe, possible or appropriate;

6 (F) assuring safe and adequate care of children
7 away from their homes, in cases where the child cannot
8 be returned home or cannot be placed for adoption. At
9 the time of placement, the Department shall consider
10 concurrent planning, as described in subsection (1-1)
11 of this Section so that permanency may occur at the
12 earliest opportunity. Consideration should be given so
13 that if reunification fails or is delayed, the
14 placement made is the best available placement to
15 provide permanency for the child;

16 (G) (blank);

17 (H) (blank); and

18 (I) placing and maintaining children in facilities
19 that provide separate living quarters for children
20 under the age of 18 and for children 18 years of age
21 and older, unless a child 18 years of age is in the
22 last year of high school education or vocational
23 training, in an approved individual or group treatment
24 program, in a licensed shelter facility, or secure
25 child care facility. The Department is not required to
26 place or maintain children:

1 (i) who are in a foster home, or

2 (ii) who are persons with a developmental
3 disability, as defined in the Mental Health and
4 Developmental Disabilities Code, or

5 (iii) who are female children who are
6 pregnant, pregnant and parenting or parenting, or

7 (iv) who are siblings, in facilities that
8 provide separate living quarters for children 18
9 years of age and older and for children under 18
10 years of age.

11 (b) Nothing in this Section shall be construed to authorize
12 the expenditure of public funds for the purpose of performing
13 abortions.

14 (c) The Department shall establish and maintain
15 tax-supported child welfare services and extend and seek to
16 improve voluntary services throughout the State, to the end
17 that services and care shall be available on an equal basis
18 throughout the State to children requiring such services.

19 (d) The Director may authorize advance disbursements for
20 any new program initiative to any agency contracting with the
21 Department. As a prerequisite for an advance disbursement, the
22 contractor must post a surety bond in the amount of the advance
23 disbursement and have a purchase of service contract approved
24 by the Department. The Department may pay up to 2 months
25 operational expenses in advance. The amount of the advance
26 disbursement shall be prorated over the life of the contract or

1 the remaining months of the fiscal year, whichever is less, and
2 the installment amount shall then be deducted from future
3 bills. Advance disbursement authorizations for new initiatives
4 shall not be made to any agency after that agency has operated
5 during 2 consecutive fiscal years. The requirements of this
6 Section concerning advance disbursements shall not apply with
7 respect to the following: payments to local public agencies for
8 child day care services as authorized by Section 5a of this
9 Act; and youth service programs receiving grant funds under
10 Section 17a-4.

11 (e) (Blank).

12 (f) (Blank).

13 (g) The Department shall establish rules and regulations
14 concerning its operation of programs designed to meet the goals
15 of child safety and protection, family preservation, family
16 reunification, and adoption, including but not limited to:

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

25 (9) placement under Section 5-7 of the Juvenile Court
26 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

1 Court Act of 1987 in accordance with the federal Adoption
2 Assistance and Child Welfare Act of 1980; and

3 (10) interstate services.

4 Rules and regulations established by the Department shall
5 include provisions for training Department staff and the staff
6 of Department grantees, through contracts with other agencies
7 or resources, in alcohol and drug abuse screening techniques
8 approved by the Department of Human Services, as a successor to
9 the Department of Alcoholism and Substance Abuse, for the
10 purpose of identifying children and adults who should be
11 referred to an alcohol and drug abuse treatment program for
12 professional evaluation.

13 (h) If the Department finds that there is no appropriate
14 program or facility within or available to the Department for a
15 ward and that no licensed private facility has an adequate and
16 appropriate program or none agrees to accept the ward, the
17 Department shall create an appropriate individualized,
18 program-oriented plan for such ward. The plan may be developed
19 within the Department or through purchase of services by the
20 Department to the extent that it is within its statutory
21 authority to do.

22 (i) Service programs shall be available throughout the
23 State and shall include but not be limited to the following
24 services:

25 (1) case management;

26 (2) homemakers;

- 1 (3) counseling;
- 2 (4) parent education;
- 3 (5) day care; and
- 4 (6) emergency assistance and advocacy.

5 In addition, the following services may be made available
6 to assess and meet the needs of children and families:

- 7 (1) comprehensive family-based services;
- 8 (2) assessments;
- 9 (3) respite care; and
- 10 (4) in-home health services.

11 The Department shall provide transportation for any of the
12 services it makes available to children or families or for
13 which it refers children or families.

14 (j) The Department may provide categories of financial
15 assistance and education assistance grants, and shall
16 establish rules and regulations concerning the assistance and
17 grants, to persons who adopt physically or mentally
18 handicapped, older and other hard-to-place children who (i)
19 immediately prior to their adoption were legal wards of the
20 Department or (ii) were determined eligible for financial
21 assistance with respect to a prior adoption and who become
22 available for adoption because the prior adoption has been
23 dissolved and the parental rights of the adoptive parents have
24 been terminated or because the child's adoptive parents have
25 died. The Department may, subject to federal financial
26 participation in the cost, continue to provide financial

1 assistance and education assistance grants for a child who was
2 determined eligible for financial assistance under this
3 subsection (j) in the interim period beginning when the child's
4 adoptive parents died and ending with the finalization of the
5 new adoption of the child by another adoptive parent or
6 parents. The Department may also provide categories of
7 financial assistance and education assistance grants, and
8 shall establish rules and regulations for the assistance and
9 grants, to persons appointed guardian of the person under
10 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
11 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
12 who were wards of the Department for 12 months immediately
13 prior to the appointment of the guardian.

14 The amount of assistance may vary, depending upon the needs
15 of the child and the adoptive parents, as set forth in the
16 annual assistance agreement. Special purpose grants are
17 allowed where the child requires special service but such costs
18 may not exceed the amounts which similar services would cost
19 the Department if it were to provide or secure them as guardian
20 of the child.

21 Any financial assistance provided under this subsection is
22 inalienable by assignment, sale, execution, attachment,
23 garnishment, or any other remedy for recovery or collection of
24 a judgment or debt.

25 (j-5) The Department shall not deny or delay the placement
26 of a child for adoption if an approved family is available

1 either outside of the Department region handling the case, or
2 outside of the State of Illinois.

3 (k) The Department shall accept for care and training any
4 child who has been adjudicated neglected or abused, or
5 dependent committed to it pursuant to the Juvenile Court Act or
6 the Juvenile Court Act of 1987.

7 (l) Before July 1, 2000, the Department may provide, and
8 beginning July 1, 2000, the Department shall offer family
9 preservation services, as defined in Section 8.2 of the Abused
10 and Neglected Child Reporting Act, to help families, including
11 adoptive and extended families. Family preservation services
12 shall be offered (i) to prevent the placement of children in
13 substitute care when the children can be cared for at home or
14 in the custody of the person responsible for the children's
15 welfare, (ii) to reunite children with their families, or (iii)
16 to maintain an adoptive placement. Family preservation
17 services shall only be offered when doing so will not endanger
18 the children's health or safety. With respect to children who
19 are in substitute care pursuant to the Juvenile Court Act of
20 1987, family preservation services shall not be offered if a
21 goal other than those of subdivisions (A), (B), or (B-1) of
22 subsection (2) of Section 2-28 of that Act has been set.
23 Nothing in this paragraph shall be construed to create a
24 private right of action or claim on the part of any individual
25 or child welfare agency.

26 The Department shall notify the child and his family of the

1 Department's responsibility to offer and provide family
2 preservation services as identified in the service plan. The
3 child and his family shall be eligible for services as soon as
4 the report is determined to be "indicated". The Department may
5 offer services to any child or family with respect to whom a
6 report of suspected child abuse or neglect has been filed,
7 prior to concluding its investigation under Section 7.12 of the
8 Abused and Neglected Child Reporting Act. However, the child's
9 or family's willingness to accept services shall not be
10 considered in the investigation. The Department may also
11 provide services to any child or family who is the subject of
12 any report of suspected child abuse or neglect or may refer
13 such child or family to services available from other agencies
14 in the community, even if the report is determined to be
15 unfounded, if the conditions in the child's or family's home
16 are reasonably likely to subject the child or family to future
17 reports of suspected child abuse or neglect. Acceptance of such
18 services shall be voluntary.

19 The Department may, at its discretion except for those
20 children also adjudicated neglected or dependent, accept for
21 care and training any child who has been adjudicated addicted,
22 as a truant minor in need of supervision or as a minor
23 requiring authoritative intervention, under the Juvenile Court
24 Act or the Juvenile Court Act of 1987, but no such child shall
25 be committed to the Department by any court without the
26 approval of the Department. A minor charged with a criminal

1 offense under the Criminal Code of 1961 or adjudicated
2 delinquent shall not be placed in the custody of or committed
3 to the Department by any court, except a minor less than 15 ~~13~~
4 years of age committed to the Department under Section 5-710 of
5 the Juvenile Court Act of 1987 or a minor for whom an
6 independent basis of abuse, neglect, or dependency exists,
7 which must be defined by departmental rule. An independent
8 basis exists when the allegations or adjudication of abuse,
9 neglect, or dependency do not arise from the same facts,
10 incident, or circumstances which give rise to a charge or
11 adjudication of delinquency.

12 (1-1) The legislature recognizes that the best interests of
13 the child require that the child be placed in the most
14 permanent living arrangement as soon as is practically
15 possible. To achieve this goal, the legislature directs the
16 Department of Children and Family Services to conduct
17 concurrent planning so that permanency may occur at the
18 earliest opportunity. Permanent living arrangements may
19 include prevention of placement of a child outside the home of
20 the family when the child can be cared for at home without
21 endangering the child's health or safety; reunification with
22 the family, when safe and appropriate, if temporary placement
23 is necessary; or movement of the child toward the most
24 permanent living arrangement and permanent legal status.

25 When determining reasonable efforts to be made with respect
26 to a child, as described in this subsection, and in making such

1 reasonable efforts, the child's health and safety shall be the
2 paramount concern.

3 When a child is placed in foster care, the Department shall
4 ensure and document that reasonable efforts were made to
5 prevent or eliminate the need to remove the child from the
6 child's home. The Department must make reasonable efforts to
7 reunify the family when temporary placement of the child occurs
8 unless otherwise required, pursuant to the Juvenile Court Act
9 of 1987. At any time after the dispositional hearing where the
10 Department believes that further reunification services would
11 be ineffective, it may request a finding from the court that
12 reasonable efforts are no longer appropriate. The Department is
13 not required to provide further reunification services after
14 such a finding.

15 A decision to place a child in substitute care shall be
16 made with considerations of the child's health, safety, and
17 best interests. At the time of placement, consideration should
18 also be given so that if reunification fails or is delayed, the
19 placement made is the best available placement to provide
20 permanency for the child.

21 The Department shall adopt rules addressing concurrent
22 planning for reunification and permanency. The Department
23 shall consider the following factors when determining
24 appropriateness of concurrent planning:

- 25 (1) the likelihood of prompt reunification;
26 (2) the past history of the family;

1 (3) the barriers to reunification being addressed by
2 the family;

3 (4) the level of cooperation of the family;

4 (5) the foster parents' willingness to work with the
5 family to reunite;

6 (6) the willingness and ability of the foster family to
7 provide an adoptive home or long-term placement;

8 (7) the age of the child;

9 (8) placement of siblings.

10 (m) The Department may assume temporary custody of any
11 child if:

12 (1) it has received a written consent to such temporary
13 custody signed by the parents of the child or by the parent
14 having custody of the child if the parents are not living
15 together or by the guardian or custodian of the child if
16 the child is not in the custody of either parent, or

17 (2) the child is found in the State and neither a
18 parent, guardian nor custodian of the child can be located.

19 If the child is found in his or her residence without a parent,
20 guardian, custodian or responsible caretaker, the Department
21 may, instead of removing the child and assuming temporary
22 custody, place an authorized representative of the Department
23 in that residence until such time as a parent, guardian or
24 custodian enters the home and expresses a willingness and
25 apparent ability to ensure the child's health and safety and
26 resume permanent charge of the child, or until a relative

1 enters the home and is willing and able to ensure the child's
2 health and safety and assume charge of the child until a
3 parent, guardian or custodian enters the home and expresses
4 such willingness and ability to ensure the child's safety and
5 resume permanent charge. After a caretaker has remained in the
6 home for a period not to exceed 12 hours, the Department must
7 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
8 5-415 of the Juvenile Court Act of 1987.

9 The Department shall have the authority, responsibilities
10 and duties that a legal custodian of the child would have
11 pursuant to subsection (9) of Section 1-3 of the Juvenile Court
12 Act of 1987. Whenever a child is taken into temporary custody
13 pursuant to an investigation under the Abused and Neglected
14 Child Reporting Act, or pursuant to a referral and acceptance
15 under the Juvenile Court Act of 1987 of a minor in limited
16 custody, the Department, during the period of temporary custody
17 and before the child is brought before a judicial officer as
18 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
19 Court Act of 1987, shall have the authority, responsibilities
20 and duties that a legal custodian of the child would have under
21 subsection (9) of Section 1-3 of the Juvenile Court Act of
22 1987.

23 The Department shall ensure that any child taken into
24 custody is scheduled for an appointment for a medical
25 examination.

26 A parent, guardian or custodian of a child in the temporary

1 custody of the Department who would have custody of the child
2 if he were not in the temporary custody of the Department may
3 deliver to the Department a signed request that the Department
4 surrender the temporary custody of the child. The Department
5 may retain temporary custody of the child for 10 days after the
6 receipt of the request, during which period the Department may
7 cause to be filed a petition pursuant to the Juvenile Court Act
8 of 1987. If a petition is so filed, the Department shall retain
9 temporary custody of the child until the court orders
10 otherwise. If a petition is not filed within the 10 day period,
11 the child shall be surrendered to the custody of the requesting
12 parent, guardian or custodian not later than the expiration of
13 the 10 day period, at which time the authority and duties of
14 the Department with respect to the temporary custody of the
15 child shall terminate.

16 (m-1) The Department may place children under 18 years of
17 age in a secure child care facility licensed by the Department
18 that cares for children who are in need of secure living
19 arrangements for their health, safety, and well-being after a
20 determination is made by the facility director and the Director
21 or the Director's designate prior to admission to the facility
22 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
23 This subsection (m-1) does not apply to a child who is subject
24 to placement in a correctional facility operated pursuant to
25 Section 3-15-2 of the Unified Code of Corrections, unless the
26 child is a ward who was placed under the care of the Department

1 before being subject to placement in a correctional facility
2 and a court of competent jurisdiction has ordered placement of
3 the child in a secure care facility.

4 (n) The Department may place children under 18 years of age
5 in licensed child care facilities when in the opinion of the
6 Department, appropriate services aimed at family preservation
7 have been unsuccessful and cannot ensure the child's health and
8 safety or are unavailable and such placement would be for their
9 best interest. Payment for board, clothing, care, training and
10 supervision of any child placed in a licensed child care
11 facility may be made by the Department, by the parents or
12 guardians of the estates of those children, or by both the
13 Department and the parents or guardians, except that no
14 payments shall be made by the Department for any child placed
15 in a licensed child care facility for board, clothing, care,
16 training and supervision of such a child that exceed the
17 average per capita cost of maintaining and of caring for a
18 child in institutions for dependent or neglected children
19 operated by the Department. However, such restriction on
20 payments does not apply in cases where children require
21 specialized care and treatment for problems of severe emotional
22 disturbance, physical disability, social adjustment, or any
23 combination thereof and suitable facilities for the placement
24 of such children are not available at payment rates within the
25 limitations set forth in this Section. All reimbursements for
26 services delivered shall be absolutely inalienable by

1 assignment, sale, attachment, garnishment or otherwise.

2 (o) The Department shall establish an administrative
3 review and appeal process for children and families who request
4 or receive child welfare services from the Department. Children
5 who are wards of the Department and are placed by private child
6 welfare agencies, and foster families with whom those children
7 are placed, shall be afforded the same procedural and appeal
8 rights as children and families in the case of placement by the
9 Department, including the right to an initial review of a
10 private agency decision by that agency. The Department shall
11 insure that any private child welfare agency, which accepts
12 wards of the Department for placement, affords those rights to
13 children and foster families. The Department shall accept for
14 administrative review and an appeal hearing a complaint made by
15 (i) a child or foster family concerning a decision following an
16 initial review by a private child welfare agency or (ii) a
17 prospective adoptive parent who alleges a violation of
18 subsection (j-5) of this Section. An appeal of a decision
19 concerning a change in the placement of a child shall be
20 conducted in an expedited manner.

21 (p) There is hereby created the Department of Children and
22 Family Services Emergency Assistance Fund from which the
23 Department may provide special financial assistance to
24 families which are in economic crisis when such assistance is
25 not available through other public or private sources and the
26 assistance is deemed necessary to prevent dissolution of the

1 family unit or to reunite families which have been separated
2 due to child abuse and neglect. The Department shall establish
3 administrative rules specifying the criteria for determining
4 eligibility for and the amount and nature of assistance to be
5 provided. The Department may also enter into written agreements
6 with private and public social service agencies to provide
7 emergency financial services to families referred by the
8 Department. Special financial assistance payments shall be
9 available to a family no more than once during each fiscal year
10 and the total payments to a family may not exceed \$500 during a
11 fiscal year.

12 (q) The Department may receive and use, in their entirety,
13 for the benefit of children any gift, donation or bequest of
14 money or other property which is received on behalf of such
15 children, or any financial benefits to which such children are
16 or may become entitled while under the jurisdiction or care of
17 the Department.

18 The Department shall set up and administer no-cost,
19 interest-bearing accounts in appropriate financial
20 institutions for children for whom the Department is legally
21 responsible and who have been determined eligible for Veterans'
22 Benefits, Social Security benefits, assistance allotments from
23 the armed forces, court ordered payments, parental voluntary
24 payments, Supplemental Security Income, Railroad Retirement
25 payments, Black Lung benefits, or other miscellaneous
26 payments. Interest earned by each account shall be credited to

1 the account, unless disbursed in accordance with this
2 subsection.

3 In disbursing funds from children's accounts, the
4 Department shall:

5 (1) Establish standards in accordance with State and
6 federal laws for disbursing money from children's
7 accounts. In all circumstances, the Department's
8 "Guardianship Administrator" or his or her designee must
9 approve disbursements from children's accounts. The
10 Department shall be responsible for keeping complete
11 records of all disbursements for each account for any
12 purpose.

13 (2) Calculate on a monthly basis the amounts paid from
14 State funds for the child's board and care, medical care
15 not covered under Medicaid, and social services; and
16 utilize funds from the child's account, as covered by
17 regulation, to reimburse those costs. Monthly,
18 disbursements from all children's accounts, up to 1/12 of
19 \$13,000,000, shall be deposited by the Department into the
20 General Revenue Fund and the balance over 1/12 of
21 \$13,000,000 into the DCFS Children's Services Fund.

22 (3) Maintain any balance remaining after reimbursing
23 for the child's costs of care, as specified in item (2).
24 The balance shall accumulate in accordance with relevant
25 State and federal laws and shall be disbursed to the child
26 or his or her guardian, or to the issuing agency.

1 (r) The Department shall promulgate regulations
2 encouraging all adoption agencies to voluntarily forward to the
3 Department or its agent names and addresses of all persons who
4 have applied for and have been approved for adoption of a
5 hard-to-place or handicapped child and the names of such
6 children who have not been placed for adoption. A list of such
7 names and addresses shall be maintained by the Department or
8 its agent, and coded lists which maintain the confidentiality
9 of the person seeking to adopt the child and of the child shall
10 be made available, without charge, to every adoption agency in
11 the State to assist the agencies in placing such children for
12 adoption. The Department may delegate to an agent its duty to
13 maintain and make available such lists. The Department shall
14 ensure that such agent maintains the confidentiality of the
15 person seeking to adopt the child and of the child.

16 (s) The Department of Children and Family Services may
17 establish and implement a program to reimburse Department and
18 private child welfare agency foster parents licensed by the
19 Department of Children and Family Services for damages
20 sustained by the foster parents as a result of the malicious or
21 negligent acts of foster children, as well as providing third
22 party coverage for such foster parents with regard to actions
23 of foster children to other individuals. Such coverage will be
24 secondary to the foster parent liability insurance policy, if
25 applicable. The program shall be funded through appropriations
26 from the General Revenue Fund, specifically designated for such

1 purposes.

2 (t) The Department shall perform home studies and
3 investigations and shall exercise supervision over visitation
4 as ordered by a court pursuant to the Illinois Marriage and
5 Dissolution of Marriage Act or the Adoption Act only if:

6 (1) an order entered by an Illinois court specifically
7 directs the Department to perform such services; and

8 (2) the court has ordered one or both of the parties to
9 the proceeding to reimburse the Department for its
10 reasonable costs for providing such services in accordance
11 with Department rules, or has determined that neither party
12 is financially able to pay.

13 The Department shall provide written notification to the
14 court of the specific arrangements for supervised visitation
15 and projected monthly costs within 60 days of the court order.
16 The Department shall send to the court information related to
17 the costs incurred except in cases where the court has
18 determined the parties are financially unable to pay. The court
19 may order additional periodic reports as appropriate.

20 (u) In addition to other information that must be provided,
21 whenever the Department places a child with a prospective
22 adoptive parent or parents or in a licensed foster home, group
23 home, child care institution, or in a relative home, the
24 Department shall provide to the prospective adoptive parent or
25 parents or other caretaker:

26 (1) available detailed information concerning the

1 child's educational and health history, copies of
2 immunization records (including insurance and medical card
3 information), a history of the child's previous
4 placements, if any, and reasons for placement changes
5 excluding any information that identifies or reveals the
6 location of any previous caretaker;

7 (2) a copy of the child's portion of the client service
8 plan, including any visitation arrangement, and all
9 amendments or revisions to it as related to the child; and

10 (3) information containing details of the child's
11 individualized educational plan when the child is
12 receiving special education services.

13 The caretaker shall be informed of any known social or
14 behavioral information (including, but not limited to,
15 criminal background, fire setting, perpetuation of sexual
16 abuse, destructive behavior, and substance abuse) necessary to
17 care for and safeguard the children to be placed or currently
18 in the home. The Department may prepare a written summary of
19 the information required by this paragraph, which may be
20 provided to the foster or prospective adoptive parent in
21 advance of a placement. The foster or prospective adoptive
22 parent may review the supporting documents in the child's file
23 in the presence of casework staff. In the case of an emergency
24 placement, casework staff shall at least provide known
25 information verbally, if necessary, and must subsequently
26 provide the information in writing as required by this

1 subsection.

2 The information described in this subsection shall be
3 provided in writing. In the case of emergency placements when
4 time does not allow prior review, preparation, and collection
5 of written information, the Department shall provide such
6 information as it becomes available. Within 10 business days
7 after placement, the Department shall obtain from the
8 prospective adoptive parent or parents or other caretaker a
9 signed verification of receipt of the information provided.
10 Within 10 business days after placement, the Department shall
11 provide to the child's guardian ad litem a copy of the
12 information provided to the prospective adoptive parent or
13 parents or other caretaker. The information provided to the
14 prospective adoptive parent or parents or other caretaker shall
15 be reviewed and approved regarding accuracy at the supervisory
16 level.

17 (u-5) Effective July 1, 1995, only foster care placements
18 licensed as foster family homes pursuant to the Child Care Act
19 of 1969 shall be eligible to receive foster care payments from
20 the Department. Relative caregivers who, as of July 1, 1995,
21 were approved pursuant to approved relative placement rules
22 previously promulgated by the Department at 89 Ill. Adm. Code
23 335 and had submitted an application for licensure as a foster
24 family home may continue to receive foster care payments only
25 until the Department determines that they may be licensed as a
26 foster family home or that their application for licensure is

1 denied or until September 30, 1995, whichever occurs first.

2 (v) The Department shall access criminal history record
3 information as defined in the Illinois Uniform Conviction
4 Information Act and information maintained in the adjudicatory
5 and dispositional record system as defined in Section 2605-355
6 of the Department of State Police Law (20 ILCS 2605/2605-355)
7 if the Department determines the information is necessary to
8 perform its duties under the Abused and Neglected Child
9 Reporting Act, the Child Care Act of 1969, and the Children and
10 Family Services Act. The Department shall provide for
11 interactive computerized communication and processing
12 equipment that permits direct on-line communication with the
13 Department of State Police's central criminal history data
14 repository. The Department shall comply with all certification
15 requirements and provide certified operators who have been
16 trained by personnel from the Department of State Police. In
17 addition, one Office of the Inspector General investigator
18 shall have training in the use of the criminal history
19 information access system and have access to the terminal. The
20 Department of Children and Family Services and its employees
21 shall abide by rules and regulations established by the
22 Department of State Police relating to the access and
23 dissemination of this information.

24 (w) Within 120 days of August 20, 1995 (the effective date
25 of Public Act 89-392), the Department shall prepare and submit
26 to the Governor and the General Assembly, a written plan for

1 the development of in-state licensed secure child care
2 facilities that care for children who are in need of secure
3 living arrangements for their health, safety, and well-being.
4 For purposes of this subsection, secure care facility shall
5 mean a facility that is designed and operated to ensure that
6 all entrances and exits from the facility, a building or a
7 distinct part of the building, are under the exclusive control
8 of the staff of the facility, whether or not the child has the
9 freedom of movement within the perimeter of the facility,
10 building, or distinct part of the building. The plan shall
11 include descriptions of the types of facilities that are needed
12 in Illinois; the cost of developing these secure care
13 facilities; the estimated number of placements; the potential
14 cost savings resulting from the movement of children currently
15 out-of-state who are projected to be returned to Illinois; the
16 necessary geographic distribution of these facilities in
17 Illinois; and a proposed timetable for development of such
18 facilities.

19 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06.)

20 Section 10. The Juvenile Court Act of 1987 is amended by
21 changing Sections 2-10, 2-27, and 5-710 as follows:

22 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

23 Sec. 2-10. Temporary custody hearing. At the appearance of
24 the minor before the court at the temporary custody hearing,

1 all witnesses present shall be examined before the court in
2 relation to any matter connected with the allegations made in
3 the petition.

4 (1) If the court finds that there is not probable cause to
5 believe that the minor is abused, neglected or dependent it
6 shall release the minor and dismiss the petition.

7 (2) If the court finds that there is probable cause to
8 believe that the minor is abused, neglected or dependent, the
9 court shall state in writing the factual basis supporting its
10 finding and the minor, his or her parent, guardian, custodian
11 and other persons able to give relevant testimony shall be
12 examined before the court. The Department of Children and
13 Family Services shall give testimony concerning indicated
14 reports of abuse and neglect, of which they are aware of
15 through the central registry, involving the minor's parent,
16 guardian or custodian. After such testimony, the court may,
17 consistent with the health, safety and best interests of the
18 minor, enter an order that the minor shall be released upon the
19 request of parent, guardian or custodian if the parent,
20 guardian or custodian appears to take custody. Custodian shall
21 include any agency of the State which has been given custody or
22 wardship of the child. If it is consistent with the health,
23 safety and best interests of the minor, the court may also
24 prescribe shelter care and order that the minor be kept in a
25 suitable place designated by the court or in a shelter care
26 facility designated by the Department of Children and Family

1 Services or a licensed child welfare agency; however, a minor
2 charged with a criminal offense under the Criminal Code of 1961
3 or adjudicated delinquent shall not be placed in the custody of
4 or committed to the Department of Children and Family Services
5 by any court, except a minor less than 15 ~~13~~ years of age and
6 committed to the Department of Children and Family Services
7 under Section 5-710 of this Act or a minor for whom an
8 independent basis of abuse, neglect, or dependency exists. 7 An
9 independent basis exists when the allegations or adjudication
10 of abuse, neglect, or dependency do not arise from the same
11 facts, incident, or circumstances which give rise to a charge
12 or adjudication of delinquency ~~which must be defined by~~
13 ~~departmental rule.~~

14 In placing the minor, the Department or other agency shall,
15 to the extent compatible with the court's order, comply with
16 Section 7 of the Children and Family Services Act. In
17 determining the health, safety and best interests of the minor
18 to prescribe shelter care, the court must find that it is a
19 matter of immediate and urgent necessity for the safety and
20 protection of the minor or of the person or property of another
21 that the minor be placed in a shelter care facility or that he
22 or she is likely to flee the jurisdiction of the court, and
23 must further find that reasonable efforts have been made or
24 that, consistent with the health, safety and best interests of
25 the minor, no efforts reasonably can be made to prevent or
26 eliminate the necessity of removal of the minor from his or her

1 home. The court shall require documentation from the Department
2 of Children and Family Services as to the reasonable efforts
3 that were made to prevent or eliminate the necessity of removal
4 of the minor from his or her home or the reasons why no efforts
5 reasonably could be made to prevent or eliminate the necessity
6 of removal. When a minor is placed in the home of a relative,
7 the Department of Children and Family Services shall complete a
8 preliminary background review of the members of the minor's
9 custodian's household in accordance with Section 4.3 of the
10 Child Care Act of 1969 within 90 days of that placement. If the
11 minor is ordered placed in a shelter care facility of the
12 Department of Children and Family Services or a licensed child
13 welfare agency, the court shall, upon request of the
14 appropriate Department or other agency, appoint the Department
15 of Children and Family Services Guardianship Administrator or
16 other appropriate agency executive temporary custodian of the
17 minor and the court may enter such other orders related to the
18 temporary custody as it deems fit and proper, including the
19 provision of services to the minor or his family to ameliorate
20 the causes contributing to the finding of probable cause or to
21 the finding of the existence of immediate and urgent necessity.

22 Where the Department of Children and Family Services
23 Guardianship Administrator is appointed as the executive
24 temporary custodian, the Department of Children and Family
25 Services shall file with the court and serve on the parties a
26 parent-child visiting plan, within 10 days, excluding weekends

1 and holidays, after the appointment. The parent-child visiting
2 plan shall set out the time and place of visits, the frequency
3 of visits, the length of visits, who shall be present at the
4 visits, and where appropriate, the minor's opportunities to
5 have telephone and mail communication with the parents. For
6 good cause, the court may waive the requirement to file the
7 parent-child visiting plan or extend the time for filing the
8 parent-child visiting plan. Any party may, by motion, request
9 the court to review the parent-child visiting plan to determine
10 whether it is reasonably calculated to expeditiously
11 facilitate the achievement of the permanency goal and is
12 consistent with the minor's best interest. The frequency,
13 duration, and locations of visitation shall be measured by the
14 needs of the child and family, and not by the convenience of
15 Department personnel. Child development principles shall be
16 considered by the court in its analysis of how frequent
17 visitation should be, how long it should last, where it should
18 take place, and who should be present. If upon motion of the
19 party to review the plan and after receiving evidence, the
20 court determines that the parent-child visiting plan is not
21 reasonably calculated to expeditiously facilitate the
22 achievement of the permanency goal or that the restrictions
23 placed on parent-child contact are contrary to the child's best
24 interests, the court shall put in writing the factual basis
25 supporting the determination and enter specific findings based
26 on the evidence. The court shall enter an order for the

1 Department to implement changes to the parent-child visiting
2 plan, consistent with the court's findings. At any stage of
3 proceeding, any party may by motion request the court to enter
4 any orders necessary to implement the parent-child visiting
5 plan. Nothing under this subsection (2) shall restrict the
6 court from granting discretionary authority to the Department
7 to increase opportunities for additional parent-child
8 contacts, without further court orders. Nothing in this
9 subsection (2) shall restrict the Department from immediately
10 restricting or terminating parent-child contact, without
11 either amending the parent-child visiting plan or obtaining a
12 court order, where the Department or its assigns reasonably
13 believe that continuation of parent-child contact, as set out
14 in the parent-child visiting plan, would be contrary to the
15 child's health, safety, and welfare. The Department shall file
16 with the court and serve on the parties any amendments to the
17 visitation plan within 10 days, excluding weekends and
18 holidays, of the change of the visitation. Any party may, by
19 motion, request the court to review the parent-child visiting
20 plan to determine whether the parent-child visiting plan is
21 reasonably calculated to expeditiously facilitate the
22 achievement of the permanency goal, and is consistent with the
23 minor's health, safety, and best interest.

24 Acceptance of services shall not be considered an admission
25 of any allegation in a petition made pursuant to this Act, nor
26 may a referral of services be considered as evidence in any

1 proceeding pursuant to this Act, except where the issue is
2 whether the Department has made reasonable efforts to reunite
3 the family. In making its findings that it is consistent with
4 the health, safety and best interests of the minor to prescribe
5 shelter care, the court shall state in writing (i) the factual
6 basis supporting its findings concerning the immediate and
7 urgent necessity for the protection of the minor or of the
8 person or property of another and (ii) the factual basis
9 supporting its findings that reasonable efforts were made to
10 prevent or eliminate the removal of the minor from his or her
11 home or that no efforts reasonably could be made to prevent or
12 eliminate the removal of the minor from his or her home. The
13 parents, guardian, custodian, temporary custodian and minor
14 shall each be furnished a copy of such written findings. The
15 temporary custodian shall maintain a copy of the court order
16 and written findings in the case record for the child. The
17 order together with the court's findings of fact in support
18 thereof shall be entered of record in the court.

19 Once the court finds that it is a matter of immediate and
20 urgent necessity for the protection of the minor that the minor
21 be placed in a shelter care facility, the minor shall not be
22 returned to the parent, custodian or guardian until the court
23 finds that such placement is no longer necessary for the
24 protection of the minor.

25 If the child is placed in the temporary custody of the
26 Department of Children and Family Services for his or her

1 protection, the court shall admonish the parents, guardian,
2 custodian or responsible relative that the parents must
3 cooperate with the Department of Children and Family Services,
4 comply with the terms of the service plans, and correct the
5 conditions which require the child to be in care, or risk
6 termination of their parental rights.

7 (3) If prior to the shelter care hearing for a minor
8 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
9 unable to serve notice on the party respondent, the shelter
10 care hearing may proceed ex-parte. A shelter care order from an
11 ex-parte hearing shall be endorsed with the date and hour of
12 issuance and shall be filed with the clerk's office and entered
13 of record. The order shall expire after 10 days from the time
14 it is issued unless before its expiration it is renewed, at a
15 hearing upon appearance of the party respondent, or upon an
16 affidavit of the moving party as to all diligent efforts to
17 notify the party respondent by notice as herein prescribed. The
18 notice prescribed shall be in writing and shall be personally
19 delivered to the minor or the minor's attorney and to the last
20 known address of the other person or persons entitled to
21 notice. The notice shall also state the nature of the
22 allegations, the nature of the order sought by the State,
23 including whether temporary custody is sought, and the
24 consequences of failure to appear and shall contain a notice
25 that the parties will not be entitled to further written
26 notices or publication notices of proceedings in this case,

1 including the filing of an amended petition or a motion to
 2 terminate parental rights, except as required by Supreme Court
 3 Rule 11; and shall explain the right of the parties and the
 4 procedures to vacate or modify a shelter care order as provided
 5 in this Section. The notice for a shelter care hearing shall be
 6 substantially as follows:

7 NOTICE TO PARENTS AND CHILDREN
 8 OF SHELTER CARE HEARING

9 On at, before the Honorable
 10, (address:), the State
 11 of Illinois will present evidence (1) that (name of child
 12 or children) are abused, neglected
 13 or dependent for the following reasons:

14 and (2)
 15 that there is "immediate and urgent necessity" to remove
 16 the child or children from the responsible relative.

17 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
 18 PLACEMENT of the child or children in foster care until a
 19 trial can be held. A trial may not be held for up to 90
 20 days. You will not be entitled to further notices of
 21 proceedings in this case, including the filing of an
 22 amended petition or a motion to terminate parental rights.

23 At the shelter care hearing, parents have the following
 24 rights:

- 25 1. To ask the court to appoint a lawyer if they
- 26 cannot afford one.

1 2. To ask the court to continue the hearing to
2 allow them time to prepare.

3 3. To present evidence concerning:

4 a. Whether or not the child or children were
5 abused, neglected or dependent.

6 b. Whether or not there is "immediate and
7 urgent necessity" to remove the child from home
8 (including: their ability to care for the child,
9 conditions in the home, alternative means of
10 protecting the child other than removal).

11 c. The best interests of the child.

12 4. To cross examine the State's witnesses.

13 The Notice for rehearings shall be substantially as
14 follows:

15 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
16 TO REHEARING ON TEMPORARY CUSTODY

17 If you were not present at and did not have adequate
18 notice of the Shelter Care Hearing at which temporary
19 custody of was awarded to
20, you have the right to request a full
21 rehearing on whether the State should have temporary
22 custody of To request this rehearing,
23 you must file with the Clerk of the Juvenile Court
24 (address):, in person or by
25 mailing a statement (affidavit) setting forth the

1 following:

2 1. That you were not present at the shelter care
3 hearing.

4 2. That you did not get adequate notice (explaining
5 how the notice was inadequate).

6 3. Your signature.

7 4. Signature must be notarized.

8 The rehearing should be scheduled within 48 hours of
9 your filing this affidavit.

10 At the rehearing, your rights are the same as at the
11 initial shelter care hearing. The enclosed notice explains
12 those rights.

13 At the Shelter Care Hearing, children have the
14 following rights:

15 1. To have a guardian ad litem appointed.

16 2. To be declared competent as a witness and to
17 present testimony concerning:

18 a. Whether they are abused, neglected or
19 dependent.

20 b. Whether there is "immediate and urgent
21 necessity" to be removed from home.

22 c. Their best interests.

23 3. To cross examine witnesses for other parties.

24 4. To obtain an explanation of any proceedings and
25 orders of the court.

26 (4) If the parent, guardian, legal custodian, responsible

1 relative, minor age 8 or over, or counsel of the minor did not
2 have actual notice of or was not present at the shelter care
3 hearing, he or she may file an affidavit setting forth these
4 facts, and the clerk shall set the matter for rehearing not
5 later than 48 hours, excluding Sundays and legal holidays,
6 after the filing of the affidavit. At the rehearing, the court
7 shall proceed in the same manner as upon the original hearing.

8 (5) Only when there is reasonable cause to believe that the
9 minor taken into custody is a person described in subsection
10 (3) of Section 5-105 may the minor be kept or detained in a
11 detention home or county or municipal jail. This Section shall
12 in no way be construed to limit subsection (6).

13 (6) No minor under 16 years of age may be confined in a
14 jail or place ordinarily used for the confinement of prisoners
15 in a police station. Minors under 17 years of age must be kept
16 separate from confined adults and may not at any time be kept
17 in the same cell, room, or yard with adults confined pursuant
18 to the criminal law.

19 (7) If the minor is not brought before a judicial officer
20 within the time period as specified in Section 2-9, the minor
21 must immediately be released from custody.

22 (8) If neither the parent, guardian or custodian appears
23 within 24 hours to take custody of a minor released upon
24 request pursuant to subsection (2) of this Section, then the
25 clerk of the court shall set the matter for rehearing not later
26 than 7 days after the original order and shall issue a summons

1 directed to the parent, guardian or custodian to appear. At the
2 same time the probation department shall prepare a report on
3 the minor. If a parent, guardian or custodian does not appear
4 at such rehearing, the judge may enter an order prescribing
5 that the minor be kept in a suitable place designated by the
6 Department of Children and Family Services or a licensed child
7 welfare agency.

8 (9) Notwithstanding any other provision of this Section any
9 interested party, including the State, the temporary
10 custodian, an agency providing services to the minor or family
11 under a service plan pursuant to Section 8.2 of the Abused and
12 Neglected Child Reporting Act, foster parent, or any of their
13 representatives, on notice to all parties entitled to notice,
14 may file a motion that it is in the best interests of the minor
15 to modify or vacate a temporary custody order on any of the
16 following grounds:

17 (a) It is no longer a matter of immediate and urgent
18 necessity that the minor remain in shelter care; or

19 (b) There is a material change in the circumstances of
20 the natural family from which the minor was removed and the
21 child can be cared for at home without endangering the
22 child's health or safety; or

23 (c) A person not a party to the alleged abuse, neglect
24 or dependency, including a parent, relative or legal
25 guardian, is capable of assuming temporary custody of the
26 minor; or

1 (d) Services provided by the Department of Children and
2 Family Services or a child welfare agency or other service
3 provider have been successful in eliminating the need for
4 temporary custody and the child can be cared for at home
5 without endangering the child's health or safety.

6 In ruling on the motion, the court shall determine whether
7 it is consistent with the health, safety and best interests of
8 the minor to modify or vacate a temporary custody order.

9 The clerk shall set the matter for hearing not later than
10 14 days after such motion is filed. In the event that the court
11 modifies or vacates a temporary custody order but does not
12 vacate its finding of probable cause, the court may order that
13 appropriate services be continued or initiated in behalf of the
14 minor and his or her family.

15 (10) When the court finds or has found that there is
16 probable cause to believe a minor is an abused minor as
17 described in subsection (2) of Section 2-3 and that there is an
18 immediate and urgent necessity for the abused minor to be
19 placed in shelter care, immediate and urgent necessity shall be
20 presumed for any other minor residing in the same household as
21 the abused minor provided:

22 (a) Such other minor is the subject of an abuse or
23 neglect petition pending before the court; and

24 (b) A party to the petition is seeking shelter care for
25 such other minor.

26 Once the presumption of immediate and urgent necessity has

1 been raised, the burden of demonstrating the lack of immediate
2 and urgent necessity shall be on any party that is opposing
3 shelter care for the other minor.

4 (Source: P.A. 94-604, eff. 1-1-06.)

5 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

6 Sec. 2-27. Placement; legal custody or guardianship.

7 (1) If the court determines and puts in writing the factual
8 basis supporting the determination of whether the parents,
9 guardian, or legal custodian of a minor adjudged a ward of the
10 court are unfit or are unable, for some reason other than
11 financial circumstances alone, to care for, protect, train or
12 discipline the minor or are unwilling to do so, and that the
13 health, safety, and best interest of the minor will be
14 jeopardized if the minor remains in the custody of his or her
15 parents, guardian or custodian, the court may at this hearing
16 and at any later point:

17 (a) place the minor in the custody of a suitable
18 relative or other person as legal custodian or guardian;

19 (a-5) with the approval of the Department of Children
20 and Family Services, place the minor in the subsidized
21 guardianship of a suitable relative or other person as
22 legal guardian; "subsidized guardianship" means a private
23 guardianship arrangement for children for whom the
24 permanency goals of return home and adoption have been
25 ruled out and who meet the qualifications for subsidized

1 guardianship as defined by the Department of Children and
2 Family Services in administrative rules;

3 (b) place the minor under the guardianship of a
4 probation officer;

5 (c) commit the minor to an agency for care or
6 placement, except an institution under the authority of the
7 Department of Corrections or of the Department of Children
8 and Family Services;

9 (d) commit the minor to the Department of Children and
10 Family Services for care and service; however, a minor
11 charged with a criminal offense under the Criminal Code of
12 1961 or adjudicated delinquent shall not be placed in the
13 custody of or committed to the Department of Children and
14 Family Services by any court, except a minor less than 15
15 ~~13~~ years of age and committed to the Department of Children
16 and Family Services under Section 5-710 of this Act or a
17 minor for whom an independent basis of abuse, neglect, or
18 dependency exists. An independent basis exists when the
19 allegations or adjudication of abuse, neglect, or
20 dependency do not arise from the same facts, incident, or
21 circumstances which give rise to a charge or adjudication
22 of delinquency. The Department shall be given due notice of
23 the pendency of the action and the Guardianship
24 Administrator of the Department of Children and Family
25 Services shall be appointed guardian of the person of the
26 minor. Whenever the Department seeks to discharge a minor

1 from its care and service, the Guardianship Administrator
2 shall petition the court for an order terminating
3 guardianship. The Guardianship Administrator may designate
4 one or more other officers of the Department, appointed as
5 Department officers by administrative order of the
6 Department Director, authorized to affix the signature of
7 the Guardianship Administrator to documents affecting the
8 guardian-ward relationship of children for whom he or she
9 has been appointed guardian at such times as he or she is
10 unable to perform the duties of his or her office. The
11 signature authorization shall include but not be limited to
12 matters of consent of marriage, enlistment in the armed
13 forces, legal proceedings, adoption, major medical and
14 surgical treatment and application for driver's license.
15 Signature authorizations made pursuant to the provisions
16 of this paragraph shall be filed with the Secretary of
17 State and the Secretary of State shall provide upon payment
18 of the customary fee, certified copies of the authorization
19 to any court or individual who requests a copy.

20 (1.5) In making a determination under this Section, the
21 court shall also consider whether, based on health, safety, and
22 the best interests of the minor,

23 (a) appropriate services aimed at family preservation
24 and family reunification have been unsuccessful in
25 rectifying the conditions that have led to a finding of
26 unfitness or inability to care for, protect, train, or

1 discipline the minor, or

2 (b) no family preservation or family reunification
3 services would be appropriate,

4 and if the petition or amended petition contained an allegation
5 that the parent is an unfit person as defined in subdivision
6 (D) of Section 1 of the Adoption Act, and the order of
7 adjudication recites that parental unfitness was established
8 by clear and convincing evidence, the court shall, when
9 appropriate and in the best interest of the minor, enter an
10 order terminating parental rights and appointing a guardian
11 with power to consent to adoption in accordance with Section
12 2-29.

13 When making a placement, the court, wherever possible,
14 shall require the Department of Children and Family Services to
15 select a person holding the same religious belief as that of
16 the minor or a private agency controlled by persons of like
17 religious faith of the minor and shall require the Department
18 to otherwise comply with Section 7 of the Children and Family
19 Services Act in placing the child. In addition, whenever
20 alternative plans for placement are available, the court shall
21 ascertain and consider, to the extent appropriate in the
22 particular case, the views and preferences of the minor.

23 (2) When a minor is placed with a suitable relative or
24 other person pursuant to item (a) of subsection (1), the court
25 shall appoint him or her the legal custodian or guardian of the
26 person of the minor. When a minor is committed to any agency,

1 the court shall appoint the proper officer or representative
2 thereof as legal custodian or guardian of the person of the
3 minor. Legal custodians and guardians of the person of the
4 minor have the respective rights and duties set forth in
5 subsection (9) of Section 1-3 except as otherwise provided by
6 order of court; but no guardian of the person may consent to
7 adoption of the minor unless that authority is conferred upon
8 him or her in accordance with Section 2-29. An agency whose
9 representative is appointed guardian of the person or legal
10 custodian of the minor may place the minor in any child care
11 facility, but the facility must be licensed under the Child
12 Care Act of 1969 or have been approved by the Department of
13 Children and Family Services as meeting the standards
14 established for such licensing. No agency may place a minor
15 adjudicated under Sections 2-3 or 2-4 in a child care facility
16 unless the placement is in compliance with the rules and
17 regulations for placement under this Section promulgated by the
18 Department of Children and Family Services under Section 5 of
19 the Children and Family Services Act. Like authority and
20 restrictions shall be conferred by the court upon any probation
21 officer who has been appointed guardian of the person of a
22 minor.

23 (3) No placement by any probation officer or agency whose
24 representative is appointed guardian of the person or legal
25 custodian of a minor may be made in any out of State child care
26 facility unless it complies with the Interstate Compact on the

1 Placement of Children. Placement with a parent, however, is not
2 subject to that Interstate Compact.

3 (4) The clerk of the court shall issue to the legal
4 custodian or guardian of the person a certified copy of the
5 order of court, as proof of his authority. No other process is
6 necessary as authority for the keeping of the minor.

7 (5) Custody or guardianship granted under this Section
8 continues until the court otherwise directs, but not after the
9 minor reaches the age of 19 years except as set forth in
10 Section 2-31.

11 (6) (Blank).

12 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-512,
13 eff. 8-22-97; 90-590, eff. 1-1-99; 90-608, eff. 6-30-98;
14 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

15 (705 ILCS 405/5-710)

16 Sec. 5-710. Kinds of sentencing orders.

17 (1) The following kinds of sentencing orders may be made in
18 respect of wards of the court:

19 (a) Except as provided in Sections 5-805, 5-810, 5-815,
20 a minor who is found guilty under Section 5-620 may be:

21 (i) put on probation or conditional discharge and
22 released to his or her parents, guardian or legal
23 custodian, provided, however, that any such minor who
24 is not committed to the Department of Juvenile Justice
25 under this subsection and who is found to be a

1 delinquent for an offense which is first degree murder,
2 a Class X felony, or a forcible felony shall be placed
3 on probation;

4 (ii) placed in accordance with Section 5-740, with
5 or without also being put on probation or conditional
6 discharge;

7 (iii) required to undergo a substance abuse
8 assessment conducted by a licensed provider and
9 participate in the indicated clinical level of care;

10 (iv) placed in the guardianship of the Department
11 of Children and Family Services, but only if the
12 delinquent minor is under 15 ~~13~~ years of age or,
13 pursuant to Article II of this Act, a minor for whom an
14 independent basis of abuse, neglect, or dependency
15 exists. An independent basis exists when the
16 allegations or adjudication of abuse, neglect, or
17 dependency do not arise from the same facts, incident,
18 or circumstances which give rise to a charge or
19 adjudication of delinquency;

20 (v) placed in detention for a period not to exceed
21 30 days, either as the exclusive order of disposition
22 or, where appropriate, in conjunction with any other
23 order of disposition issued under this paragraph,
24 provided that any such detention shall be in a juvenile
25 detention home and the minor so detained shall be 10
26 years of age or older. However, the 30-day limitation

1 may be extended by further order of the court for a
2 minor under age 15 ~~13~~ committed to the Department of
3 Children and Family Services if the court finds that
4 the minor is a danger to himself or others. The minor
5 shall be given credit on the sentencing order of
6 detention for time spent in detention under Sections
7 5-501, 5-601, 5-710, or 5-720 of this Article as a
8 result of the offense for which the sentencing order
9 was imposed. The court may grant credit on a sentencing
10 order of detention entered under a violation of
11 probation or violation of conditional discharge under
12 Section 5-720 of this Article for time spent in
13 detention before the filing of the petition alleging
14 the violation. A minor shall not be deprived of credit
15 for time spent in detention before the filing of a
16 violation of probation or conditional discharge
17 alleging the same or related act or acts;

18 (vi) ordered partially or completely emancipated
19 in accordance with the provisions of the Emancipation
20 of Minors Act;

21 (vii) subject to having his or her driver's license
22 or driving privileges suspended for such time as
23 determined by the court but only until he or she
24 attains 18 years of age;

25 (viii) put on probation or conditional discharge
26 and placed in detention under Section 3-6039 of the

1 Counties Code for a period not to exceed the period of
2 incarceration permitted by law for adults found guilty
3 of the same offense or offenses for which the minor was
4 adjudicated delinquent, and in any event no longer than
5 upon attainment of age 21; this subdivision (viii)
6 notwithstanding any contrary provision of the law; or
7 (ix) ordered to undergo a medical or other
8 procedure to have a tattoo symbolizing allegiance to a
9 street gang removed from his or her body.

10 (b) A minor found to be guilty may be committed to the
11 Department of Juvenile Justice under Section 5-750 if the
12 minor is 13 years of age or older, provided that the
13 commitment to the Department of Juvenile Justice shall be
14 made only if a term of incarceration is permitted by law
15 for adults found guilty of the offense for which the minor
16 was adjudicated delinquent. The time during which a minor
17 is in custody before being released upon the request of a
18 parent, guardian or legal custodian shall be considered as
19 time spent in detention.

20 (c) When a minor is found to be guilty for an offense
21 which is a violation of the Illinois Controlled Substances
22 Act, the Cannabis Control Act, or the Methamphetamine
23 Control and Community Protection Act and made a ward of the
24 court, the court may enter a disposition order requiring
25 the minor to undergo assessment, counseling or treatment in
26 a substance abuse program approved by the Department of

1 Human Services.

2 (2) Any sentencing order other than commitment to the
3 Department of Juvenile Justice may provide for protective
4 supervision under Section 5-725 and may include an order of
5 protection under Section 5-730.

6 (3) Unless the sentencing order expressly so provides, it
7 does not operate to close proceedings on the pending petition,
8 but is subject to modification until final closing and
9 discharge of the proceedings under Section 5-750.

10 (4) In addition to any other sentence, the court may order
11 any minor found to be delinquent to make restitution, in
12 monetary or non-monetary form, under the terms and conditions
13 of Section 5-5-6 of the Unified Code of Corrections, except
14 that the "presentencing hearing" referred to in that Section
15 shall be the sentencing hearing for purposes of this Section.
16 The parent, guardian or legal custodian of the minor may be
17 ordered by the court to pay some or all of the restitution on
18 the minor's behalf, pursuant to the Parental Responsibility
19 Law. The State's Attorney is authorized to act on behalf of any
20 victim in seeking restitution in proceedings under this
21 Section, up to the maximum amount allowed in Section 5 of the
22 Parental Responsibility Law.

23 (5) Any sentencing order where the minor is committed or
24 placed in accordance with Section 5-740 shall provide for the
25 parents or guardian of the estate of the minor to pay to the
26 legal custodian or guardian of the person of the minor such

1 sums as are determined by the custodian or guardian of the
2 person of the minor as necessary for the minor's needs. The
3 payments may not exceed the maximum amounts provided for by
4 Section 9.1 of the Children and Family Services Act.

5 (6) Whenever the sentencing order requires the minor to
6 attend school or participate in a program of training, the
7 truant officer or designated school official shall regularly
8 report to the court if the minor is a chronic or habitual
9 truant under Section 26-2a of the School Code.

10 (7) In no event shall a guilty minor be committed to the
11 Department of Juvenile Justice for a period of time in excess
12 of that period for which an adult could be committed for the
13 same act.

14 (8) A minor found to be guilty for reasons that include a
15 violation of Section 21-1.3 of the Criminal Code of 1961 shall
16 be ordered to perform community service for not less than 30
17 and not more than 120 hours, if community service is available
18 in the jurisdiction. The community service shall include, but
19 need not be limited to, the cleanup and repair of the damage
20 that was caused by the violation or similar damage to property
21 located in the municipality or county in which the violation
22 occurred. The order may be in addition to any other order
23 authorized by this Section.

24 (8.5) A minor found to be guilty for reasons that include a
25 violation of Section 3.02 or Section 3.03 of the Humane Care
26 for Animals Act or paragraph (d) of subsection (1) of Section

1 21-1 of the Criminal Code of 1961 shall be ordered to undergo
2 medical or psychiatric treatment rendered by a psychiatrist or
3 psychological treatment rendered by a clinical psychologist.
4 The order may be in addition to any other order authorized by
5 this Section.

6 (9) In addition to any other sentencing order, the court
7 shall order any minor found to be guilty for an act which would
8 constitute, predatory criminal sexual assault of a child,
9 aggravated criminal sexual assault, criminal sexual assault,
10 aggravated criminal sexual abuse, or criminal sexual abuse if
11 committed by an adult to undergo medical testing to determine
12 whether the defendant has any sexually transmissible disease
13 including a test for infection with human immunodeficiency
14 virus (HIV) or any other identified causative agency of
15 acquired immunodeficiency syndrome (AIDS). Any medical test
16 shall be performed only by appropriately licensed medical
17 practitioners and may include an analysis of any bodily fluids
18 as well as an examination of the minor's person. Except as
19 otherwise provided by law, the results of the test shall be
20 kept strictly confidential by all medical personnel involved in
21 the testing and must be personally delivered in a sealed
22 envelope to the judge of the court in which the sentencing
23 order was entered for the judge's inspection in camera. Acting
24 in accordance with the best interests of the victim and the
25 public, the judge shall have the discretion to determine to
26 whom the results of the testing may be revealed. The court

1 shall notify the minor of the results of the test for infection
2 with the human immunodeficiency virus (HIV). The court shall
3 also notify the victim if requested by the victim, and if the
4 victim is under the age of 15 and if requested by the victim's
5 parents or legal guardian, the court shall notify the victim's
6 parents or the legal guardian, of the results of the test for
7 infection with the human immunodeficiency virus (HIV). The
8 court shall provide information on the availability of HIV
9 testing and counseling at the Department of Public Health
10 facilities to all parties to whom the results of the testing
11 are revealed. The court shall order that the cost of any test
12 shall be paid by the county and may be taxed as costs against
13 the minor.

14 (10) When a court finds a minor to be guilty the court
15 shall, before entering a sentencing order under this Section,
16 make a finding whether the offense committed either: (a) was
17 related to or in furtherance of the criminal activities of an
18 organized gang or was motivated by the minor's membership in or
19 allegiance to an organized gang, or (b) involved a violation of
20 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
21 a violation of any Section of Article 24 of the Criminal Code
22 of 1961, or a violation of any statute that involved the
23 wrongful use of a firearm. If the court determines the question
24 in the affirmative, and the court does not commit the minor to
25 the Department of Juvenile Justice, the court shall order the
26 minor to perform community service for not less than 30 hours

1 nor more than 120 hours, provided that community service is
2 available in the jurisdiction and is funded and approved by the
3 county board of the county where the offense was committed. The
4 community service shall include, but need not be limited to,
5 the cleanup and repair of any damage caused by a violation of
6 Section 21-1.3 of the Criminal Code of 1961 and similar damage
7 to property located in the municipality or county in which the
8 violation occurred. When possible and reasonable, the
9 community service shall be performed in the minor's
10 neighborhood. This order shall be in addition to any other
11 order authorized by this Section except for an order to place
12 the minor in the custody of the Department of Juvenile Justice.
13 For the purposes of this Section, "organized gang" has the
14 meaning ascribed to it in Section 10 of the Illinois Streetgang
15 Terrorism Omnibus Prevention Act.

16 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)